

HOUSE No. 1827

By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty relative to workers' compensation benefits. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO WORKERS COMPENSATION BENEFITS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection 1 of section 1 of Chapter 152 of the
2 General Laws, as appearing in the 2004 Official Edition, is hereby
3 amended by adding the following to the end of the first paragraph
4 thereof:—

5 If the employee returns to employment after an injury covered by
6 this chapter without a lump sum settlement and earns less than the
7 pre-injury wages and such decrease results from the prior work
8 related injury, the prior average weekly wage shall be applicable to
9 any subsequent period of incapacity, whether or not said incapacity
10 results from a new injury or subsequent injury as set forth in section
11 thirty-five B.

1 SECTION 2. Section 13A of said chapter 152, as so appearing, is
2 further amended by striking out subsection 4 and inserting in place
3 therof the following subsection:—

4 (4) Whenever an insurer or self-insurer files a complaint to
5 reduce or discontinue an employee's benefits, and the insurer or self-
6 insurer withdraws such complaint prior to five days before a hearing
7 pursuant to section eleven, or whenever an insurer contests a claim
8 for benefits on a form prescribed by the department, other than the
9 initial liability claim as provided by subsection (1), by failing to
10 commence the compensation requested within twenty-one days of
11 receipt of such claim, and is later required to pay benefits following
12 a conference pursuant to section ten A on said claim, the insurer on

13 self-insurer shall pay an attorney's fees to the employees counsel in
14 the amount of seven hundred dollars, plus all necessary expenses.
15 However, if the insurer or self-insurer withdraws its complaint
16 within five days of the date set for conference, the fee due shall be
17 three hundred fifty dollars, plus payment of all necessary expenses.
18 Any fee payable under this paragraph shall be reduced by half when
19 the attorney failed to appear at a scheduled conciliation and such
20 failure was not beyond the control of the attorney.